

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION
FILE NO.: 5:20-cv-00029-BO**

AMOS N. JONES,

Plaintiff,

v.

CAMPBELL UNIVERSITY [sic], *et al.*,

Defendants.

**DEFENDANTS' MOTION TO COMPEL AN INDEPENDENT MENTAL
EXAMINATION**

Defendants Campbell University, John Bradley Creed, Robert Cogswell, and Timothy Zinnecker hereby move the court for an order compelling plaintiff to submit to an independent mental examination ("IME"). *See* Rule 35, Fed. R. C. P. In support of this motion, Defendants state as follows:

Plaintiff's IME will be performed by Dr. Katayoun Tabrizi whose resume is attached as Exhibit 1 to this motion.

Plaintiff's Expert Reports are currently due on October 9, 2020, and Defendants' expert reports are due on November 9, 2020. D.E. 66. Defendants respectfully request that the IME be ordered to occur during the week of October 12, 2020, so that Defendants' expert can personally evaluate the plaintiff before her report is due.

Defendants' expert has advised that the IME will take no more than 3 hours.

Defendants propose that the scope of Dr. Tabrizi's examination be limited to whether plaintiff suffers from any pre-existing psychological impairment, whether plaintiff's allegations for emotional or psychological injury are reliable and credible, and whether Defendants' alleged

conduct proximately caused any emotional or psychological injury alleged by the plaintiff. *Smith v. Board of Governors, University of North Carolina*, No. 7:08-CV-30D, 2008 WL 4877131 (E.D.N.C, 2008).

Defendants also request that the court order that the examination be held at the following neutral location: Offices of Moria Artigues, MD, and colleagues 1020 Southhill Drive, Suite 380, Cary, NC 27513.

Good cause exists to order an IME because of plaintiff's claims alleged in the Amended Complaint. More specifically, plaintiff alleges that defendants' conduct "directly and proximately" caused plaintiff to suffer "physical and emotional harm" and that plaintiff is entitled to recover damages for "emotional distress" and "pain and suffering/emotional distress and loss of enjoyment of life " *See* D.E.. 14, ¶¶ 241, 274, pp. 73-74 ¶¶7,10.

Good cause is also demonstrated by the allegations in plaintiff's Initial Disclosures. *See* Exhibit 2. Plaintiff's disclosures further confirm that plaintiff is seeking damages for "emotional distress" and "pain and suffering" thereby conceding that plaintiff's medical condition is a contested issue in this case. Ex. 2. at 6, 7.

Defendants are filing a separate memorandum in support of this motion.

This, the 12th day of June, 2020.

OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.

/s/ Regina W. Calabro

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon Counsel for Plaintiff listed below via email on this the 12th day of June, 2020.

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